

JEFFERSON COUNTY COMMISSIONERS
COURTHOUSE, BOX H
BOULDER, MT 59632
PHONE 406-225-4025
FAX 406-225-4148

TOM LYTHGOE, CHAIR

KEN WEBER

DAVE KIRSCH

**PROCEEDING OF THE BOARD OF COMMISSIONERS
COUNTY OF JEFFERSON, STATE OF MONTANA
March 31, 2009**

Present: Commissioners Lythgoe and Kirsch; Mike Hoffman and Harold Stepper, County Planners; Ben Sautter, Larry Trettin, Jeff Gerth

Absent: Commissioner Weber

CALENDAR REVIEW

4/01 Testify at legislature - 3:00

4/02 All day Zoning Commission meeting - Montana City - 8:00

COMMISSION REPORTS

ASH GROVE

Commissioner Lythgoe reported that he met with Scott Mendenhall and Richard Oppen on Wednesday regarding the state's response to the situation at Ash Grove. Apparently, the Governor's office has been meeting on a daily basis, which is overkill. He said that the likelihood of this tourmalite being the strain with asbestos is slim and preliminary testing has not found any. Numerous tests are being conducted by various labs. Scott asked Oppen why Jefferson County wasn't included and Mr. Oppen indicated that Jefferson County should have been included. Commissioner Lythgoe stated that he asked Megan Bullock, the County Sanitarian, to attend the meeting that was held the previous day, and she reported that the initial tests results show no asbestos. Commissioner Kirsch stated that he had breakfast with Scott Mendenhall and Terry Murphy that morning, and both were not happy that the DEQ had been meeting with the Governor on this issue and that they were not included.

HELENA NATIONAL FOREST

Commissioner Lythgoe reported that he and Commissioner Kirsch met with Duane Harp and Kevin Riordan of the Helena National Forest to discuss the County obtaining coordinating status to make sure that Jefferson County is at the table from the beginning of the planning process. He noted that the Beaverhead-Deer Lodge National Forest and BLM are drawing up MOUs, and Helena National will be contacting Beaverhead so that both MOUs will have the same language.

ROCKY MOUNTAIN DEVELOPMENT COUNCIL

March 31, 2009 minutes.wpd

Commissioner Kirsch reported that RMDC is currently doing the paperwork to purchase the Big Boulder Apartments. They plan to build two new buildings and tear down the old.

SUBDIVISION REVIEW

PRELIMINARY PLAT REVIEW - AMENDED TRACT B OF FORD MINOR SUBDIVISION AKA TRETTIN MINOR SUBDIVISION

Mike Hoffman, County Planner, presented his staff report for the five lot minor subdivision located in the Montana City area. The parcel contains 10.05 acres and is proposed to be split into five lots, ranging in size from 2.00 to 2.05 acres in size. Mike noted that the developer currently keeps horses on the property and the subdivision covenants state that no farm animals will be allowed in the subdivision. The remaining half of Angel Lane will be constructed to County Road Standards, and stamped, engineered road plans have been submitted. The developer has agreed to repair any damages to road surfaces located on Fair Lane, Angel Lane or Wonder Road, which lead to the proposal, during the construction process. The developer has also agreed to join the Homeowner's Association Road Maintenance Agreement between the Elkhorn Hills and Microwave Heights minor subdivisions, which all contain provisions for maintenance of existing road easements, prior to Final Plat approval. Also, all existing fence encroachment must be removed from the legal public access and utility easement along the subdivision and the centerline of Angel Lane prior to Final Plat review. The developer will make a voluntary contribution of \$500/lot to the Montana City School District and will make a cash-in-lieu payment of \$1,376.55 to the Montana City Fire District.

Mike recommended that preliminary plat approval be granted. Commissioner Lythgoe stated that the Commission has never before gotten involved in forcing covenants. He has a bit of a problem with the language. He doesn't have a problem with the way it is written or that animals are excluded, but with the fact that we enforce it. Mike stated that he would respectfully disagree; if the final plat is filed and the horses are still there, the developer would be in violation of the covenants. Commissioner Lythgoe stated that the county would be involved in making sure that the horses are gone before final plat, not in enforcing the covenants after it is finalized. Larry Trettin said that this will not be an issue; once building starts he will have to get rid of the horses. A discussion followed on the possibility of the covenants being amended at some point, if Mr. Trettin decided not to sell the lots after final plat. Commissioner Lythgoe said that he is not sure why this is even in the document.

Ben Sautter stated that this is an issue. According to the north Jefferson County zoning, it will fall under the residential zoning. He noted that five two-acre parcels doesn't equal ten acres. He stated that he has no problem with horses on horse property, but this is a residential area. He appreciates that Mike put in the document that any changes to the covenants have to come to the Commission. Commissioner Lythgoe said that he has a problem with this. He asked if Mr. Trettin decided to just sell one lot, if he could decide to keep the horses. Ben stated that he can't, according to the zoning. It is a done deal as soon as the final plat is filed. Jeff Gerth stated that when he developed Elkhorn Hills said that he was asked by someone if they could have 4-H animals, and he had to deny them because the zoning is residential. Mike said that from a review standpoint, Mr. Trettin can alter the covenants and resubmit them, but will need to comply with

the covenants once final plat is filed.

Commissioner Lythgoe asked Mr. Trettin what his plans are. Larry stated that the way the economy is currently, it will be based on a couple things, such as if his house sells. He said that if he still owns all of the property, he would like to keep the horses. However, if what Ben says is true about the zoning, he will have to comply. Ben stated that he has been there, done that, having the property size go from 10 to 8 to 6 to 2 acres. You are left with nothing by dirt and stink and this is not the way to treat a horse. He has no problem with horses on the proper amount of land. Larry said that he does a good job of taking care of the property, and he would like to keep his horses as long as he is the sole owner. Harold said that once the subdivision is recorded, it will cease to be 10 acres. Larry said that if this is indeed the rule, he will honor it.

Commissioner Lythgoe asked if it is in the zoning that farm animals are not allowed, why the language is in the preliminary plat document. Mike said that this is to make sure that the developer is aware of the rule and so that they won't be in violation of their own covenants. Mike noted that the county could extend final plat approval if the developer wishes.

Commissioner Lythgoe moved to grant preliminary plat approval. Commissioner Kirsch seconded.

Jeff asked if the homes in the subdivision will be required to be stick-built or if modulars or trailers will be allowed. Larry stated that stick-built will be required.

Ben asked about mail delivery, noting that this was left out of the preliminary plat documents. He noted that the local community has gone to great lengths to have the mail delivery centralized with a turnout and uniform boxes. Harold stated that the postal service designates where mail is to be delivered if a homeowner chooses to have home delivery. Mike stated that he will add language indicating that the developer will coordinate with rural delivery for the location of the boxes.

Jeff said that there is a hammerhead at the end of Faith Lane and asked if Larry will take off from there. Joe Carter is calling him about the need for a culvert. Jeff stated that his subdivision is completed, so it should be Larry putting in the culvert. Mike noted that the hammerhead was constructed by no culvert was put in. Ken Vivrette had said that at the end of phase 2 of the Tomaski subdivision, the culvert would be put in; phase 2 hasn't happened yet. Jeff said that the last time he talked to Mrs. Tomaski, she can't afford to do phase 2; neither of them have sold any lots. Also, where Joe wants the culvert it won't do any good. It needs to be in the low spot which is on Larry's parcel. A discussion followed of how to deal with this issue. Larry stated that he had his engineer draw the road from where it joins the existing road. A mistake was made by not having the culvert engineered in before; this is an existing problem. However, he is willing to work with the other developers to fix the problem. Ben stated that once final plat is filed, the developer is done and you deal with what you've got. Larry just said that he would do whatever, so he says, let him.

Larry asked Mike to research this. He stated that at final plat Joe asked that a culvert be put in. Ken Vivrette was handling the subdivision and said that it would be done at phase 2. Ben noted that the conditions can't be changed between preliminary and final plat approval. Mike stated that

there may be a way to do this. Larry can install the culvert and provide the other developers with the costs. Then, he either doesn't join the road agreement or if he joins he doesn't pay the fees until the costs are covered. Larry said that this seems reasonable, but it could be a while before he gets the culvert in. Jeff stated that if it is okay with everyone, he will go in and take out a portion of the hammerhead so that the water can drain, and will also throw in a couple straw bails. The water will show them where the culvert needs to go.

The motion to grant preliminary plat approval carried.

REQUEST FOR PRELIMINARY PLAT EXTENSION - BLACK EAGLE MINOR AMENDED PLAT LOT 2A

Harold Stepper, County Planner, presented his staff report and a request for extension of preliminary plat approval. Harold noted that this subdivision straddles the county line, with most of it being in Lewis and Clark County. The Counties have agreed to do joint, separate review, and the subdivision has preliminary plat approval from Lewis and Clark County as well as DEQ approval. Harold recommended that the extension be granted.

Commissioner Lythgoe moved to grant a one year extension to the Black Eagle Minor subdivision. Commissioner Kirsch seconded. The motion carried.

ITEMS FOR COMMISSIONERS ACTION OR REVIEW

DISCUSS AND DECIDE ON METAL MINES GRANT FOR WHITEHALL FIRE RECOVERY

Commissioner Lythgoe moved not to provide any funds to the Whitehall fire recovery effort in light of the news that the SBA is providing low interest loans and stimulus monies are being earmarked. Commissioner Kirsch seconded. The motion carried.

RESOLUTION 12-2009 DECLARING MAY 1ST SILVER STAR BANNER DAY

Commissioner Lythgoe read the resolution as follows:

RESOLUTION 12-2009

DECLARING MAY 1ST SILVER STAR BANNER DAY

WHEREAS, the County of Jefferson has always honored the sacrifice of the men and women in the Armed Forces; and

WHEREAS, The Silver Star Families of America was formed to make sure we remember the blood sacrifice of our wounded and ill by designing and manufacturing a Silver Star Banner and Flag; and

WHEREAS, to date The Silver Star Families of America has freely given thousands of

Silver Star Banners to the wounded and their families; and

WHEREAS, the members of The Silver Star Families of America's sole mission is that every time someone sees a Silver Star Banner in a window or a Silver Star Flag flying, that people remember the sacrifice for this County, State and Nation; and

WHEREAS, the people and Commission of Jefferson County wish that the sacrifice of so many in our Armed Forces never be forgotten.

NOW, THEREFORE, WE the Board of Commissioners of **JEFFERSON COUNTY, MONTANA** do hereby proclaim:

Our appreciation of the Silver Star Families of America and honor their commitment to our wounded Armed Forces members. We hereby declare May 1st "SILVER STAR BANNER DAY" the permanent and official day to honor the wounded and ill Soldiers of Jefferson County.

DATED this 31st day of March, 2009.

ATTEST:

BONNIE RAMEY
CLERK AND RECORDER

TOMAS E. LYTHGOE, CHAIR

KEN WEBER, COMMISSIONER

DAVE KIRSCH, COMMISSIONER

Commissioner Lythgoe moved to adopt the resolution. Commissioner Kirsch seconded. The motion carried.

DISCUSS AND DECIDE ON LOAN FOR SOUTH HILLS GULCH RMD

Commissioner Lythgoe stated that at one time Frank Stock with an Ennis bank was interested in loaning the money for the purpose of accomplishing this RMD. The homeowners want a gravel surface that can be maintained, rather than doing a full improvement district. Great West has put the cost factors together to do this, and the homeowners want someone to loan them the money to

do the improvements. This RMD will be done as any other however, with the fees being paid on their taxes.

Commissioner Lythgoe said that Frank had indicated that he was interested in loaning the money for this project, the county has pursued this possibility and up until today they thought that it would be possible. Bill Lloyd spoke with Frank earlier in the day and Frank wants the county to guarantee that the loan will be paid off. Commissioner Lythgoe stated that the County is not going to do that. He stated that they are back to discussing if the County is willing to loan enough to do the project. Commissioner Lythgoe noted that this has been done once before for a short period of time on South Hills Drive. There is precedent to do this, and he has no problem with doing this; Holmes Gulch is an extremely bad road and he thinks that there will be a lot more houses up there. Commissioner Lythgoe stated that the amount of money needed will be in the \$60,000 to 70,000 range and he would propose that the money come from the metal mines money to be paid back over a ten-year period.

Commissioner Lythgoe moved to loan the South Holmes Gulch Road Association an amount yet to be determined for ten years at 4.5% interest for the purpose of improving the road to a county standard gravel road, with the understanding that the maintenance fee will be charged to the landowners in perpetuity for the maintenance of the improvements. Commissioner Kirsch seconded. The motion carried

Commissioner Kirsch moved to adjourn. Commissioner Lythgoe seconded. The motion carried.

MEETING ADJOURNED

ATTEST:

BONNIE RAMEY
CLERK AND RECORDER

TOMAS E. LYTHGOE, CHAIR

KEN WEBER, COMMISSIONER

DAVE KIRSCH, COMMISSIONER